

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VERONICA GUTIERREZ; TIM FOX;)
ERIN WALKER AND WILLIAM)
SMITH, as individuals and on)
behalf of all others similarly)
situated,)

Plaintiffs,)

vs.)

Case No.
C07-05923 WHA

WELLS FARGO AND COMPANY;)
WELLS FARGO BANK, N.A.)
and DOES 1 - 125,)

Defendants.)

C O N F I D E N T I A L
DEPOSITION OF DEBBIE CHACON

Date: June 25, 2008

Time: 9:00 a.m.

Location: One Front Street
Suite 3500
San Francisco, California

Reported by: Jan W. Serra
CSR No. 8207

1 MR. MCCUNE: I can tell you, you'll spend a
2 lot of time correcting me on terminology today. Please
3 do that.

4 THE WITNESS: Okay.

5 BY MR. MCCUNE:

6 Q The mainframe is located where?

7 MR. JOLLEY: Same objection.

8 THE WITNESS: The mainframe computers are
9 located in Minneapolis.

10 BY MR. MCCUNE:

11 Q Are there backup systems located in a
12 different location?

13 A Yes.

14 Q Where are they located?

15 A Tempe and Shore View.

16 Q Let me start with getting an understanding of
17 what happens with the data. As you can tell from the
18 notice, it's what we are interested in.

19 An authorization request -- let's just assume
20 for a check card purchase -- comes in from a vendor and
21 comes into the Hogan system. I kind of want to figure
22 out what happens within the Hogan system on that.

23 Does the Hogan system record the time when
24 that requested authorization first enters the system?

25 MR. JOLLEY: Objection. Assumes facts, vague

1 and ambiguous.

2 THE WITNESS: No.

3 BY MR. MCCUNE:

4 Q When we talk about "record," my limited
5 understanding of computers is everything that happens,
6 it's imprinted somewhere what the computer did. Is
7 that incorrect?

8 MR. JOLLEY: Objection, vague and ambiguous.

9 THE WITNESS: I'm not sure I understand. I
10 would say yes, that's incorrect, if I understood your
11 question literally.

12 BY MR. MCCUNE:

13 Q When an authorization request comes into the
14 system and Hogan does its series of analysis with it,
15 is there a recording of the analysis that was performed
16 by Hogan on the request?

17 MR. JOLLEY: Objection, vague and ambiguous.

18 THE WITNESS: No.

19 BY MR. MCCUNE:

20 Q When Hogan makes the determination as to
21 whether to decline or authorize a transaction, does the
22 Hogan system send some sort of prompt back to the
23 vendor?

24 MR. JOLLEY: Objection, vague and ambiguous.

25 THE WITNESS: Not to the vendor, to the

1 system requesting the authorization.

2 BY MR. MCCUNE:

3 Q So for the check card illustration, what
4 system would that be?

5 A RDS.

6 Q Does the Hogan system record the fact that it
7 has authorized a transaction?

8 A In the posting of a memo on the account.

9 Q When you say "posting a memo," what do you
10 mean?

11 A An actual debit XR memo debit transaction is
12 posted to the DA checking account. That is a pending
13 debit. So we know we posted the debit.

14 Q Does Hogan record when it posts the memo?

15 A The memo post is placed and there is a log of
16 that memo post. Which is one of the reports you have;
17 XR memo.

18 Q Then there is the memo post, and then at some
19 later time the transaction is posted to the account, is
20 that how this works?

21 A Right. But the settlement, it's a settlement
22 system that then delivers the hard post. So the
23 authorization system and the settlement system are not
24 the same system, and the data passed to us is not the
25 same.

1 Q So it was an authorization system and the
2 what system?

3 A Settlement system.

4 Q Are they both systems within Hogan?

5 A No, they are both systems within Wells Fargo,
6 within TIG, but not within Hogan. They are both
7 systems within the ATM and point-of-sale application.

8 Q Is the memo posting information retained
9 beyond the day that it occurs?

10 MR. JOLLEY: Objection, vague and ambiguous.

11 THE WITNESS: Yes.

12 BY MR. MCCUNE:

13 Q If I wanted to run a report on one of my
14 clients as to any one particular transaction and find
15 out the date in which it, the transaction had a memo
16 post on it, the system would be able to do that?

17 MR. JOLLEY: Objection, vague and ambiguous.

18 THE WITNESS: Sixty days worth of transaction
19 data is available.

20 BY MR. MCCUNE:

21 Q Then what happens to the data?

22 A Rolls off. We can't afford to store more
23 data than that. It's expensive to store data.

24 Reports are available after that still,
25 but data files are not.

1 Q What data do the reports use then?

2 A The reports are created when the memo post is
3 placed and logged. So the reports go out to the report
4 archive system and are stored there. That's why you
5 can look for reports for an extended period of time.
6 The data used to create those reports is not saved for
7 extended periods of time.

8 Q Is there a report created for every
9 transaction?

10 A Every transaction is -- every memo post
11 transaction is on that XR memo file on the day posted.

12 Q Let's take a look at 73. Is that the
13 document we are talking about?

14 A The XR memo report, yes.

15 Q The one at the top?

16 A The one at the top.

17 Q What does XR stands for?

18 A XR is custom. So Hogan delivered as one
19 naming convention and Wells Fargo enhanced has another.
20 X tells me it's a custom report.

21 Q Start at the top line, left to right,
22 "Company 114." That refers to California?

23 A Yes.

24 Q Then "PROCGRP." What does that refer to?

25 A Refers to the processing group. And the PGG4

1 is the processing group, which refers to the idea that
2 this is, these are retail accounts. Tells me
3 something. Doesn't really tell you anything.

4 Q Then the run date of "1:08.06-16," what does
5 that tell you?

6 A That's exactly when the report was produced.
7 So the job that ran to produce this report ran at that
8 date and time. It was produced 6/16 at 5:44.

9 Is that what that says? Whatever time
10 that is, that's the date and time that the report
11 was produced.

12 Q It was 6/16. And where do you get the year?

13 A So, this is a Hogan formatted year. One is
14 the century, "08" is the year. So the date is in
15 century, year, month, day format is the date of this
16 report.

17 Q Then below that there is an effective date.
18 How is that different than the run date?

19 A If the data on the report were being produced
20 as of a date, that could be different. These -- this
21 data is not. So that the effective date and the run
22 date should always be the same.

23 Q Then underneath that we have what?

24 A The title of the report, and then you have
25 basically the information that tells you the period of

1 time that the memo data was collected.

2 So, from 2008 06/15, at 5:01:22 -- in
3 milliseconds I guess -- through 2008, 06/16 at
4 5:35:05, all memo post transactions posted within
5 that range of time and dates is what is reflected on
6 this report. So it's telling you the time period we
7 collected memos for this report.

8 Q Is this a report that's already in existence,
9 or was this a report on the run date somebody had put
10 parameters and it generated a report?

11 MR. JOLLEY: Objection, vague.

12 THE WITNESS: Ask the question again.

13 BY MR. MCCUNE:

14 Q Sure.

15 The time period that's identified from and
16 through, is that something that's already in place
17 or is that something that the user inputted that
18 generated this report?

19 A It's generated based on the grouping of
20 transactions pooled. So from transaction 1 through
21 transaction 10,000, however many were pooled, the
22 date/time stamp for the first one through the date/time
23 stamp of the last one.

24 Q If in this example instead of wanting just
25 from 6/15 to 6/16 -- I want 6/15 to 6/20/08 -- do I

1 have the ability to do that?

2 A Yeah. But you have to go cross days. So you
3 would have to take the report from this date, report
4 from the next date, report from the next date through.

5 If you want to go 6/15 through 6/20 then
6 you potentially have to pool reports for four or
7 five days, whatever that comes up to.

8 Q Then the information that's contained within
9 the report, it has the account numbers -- I assume
10 that's for the customer account number. Is that what
11 that is?

12 A Yeah. That's the customer account number.
13 DD account number.

14 Q Then the "post date," what does that refer
15 to, the memo post?

16 A The date the transaction was posted to the
17 system.

18 Q Not the date that it was posted to the
19 account? Am I correct?

20 A It is a memo posted to the account, but it
21 does not reflect the actual hard post to account. The
22 hard post, that you will ultimately feed the customer's
23 statement, if you will.

24 Q What is the effective date, the same as
25 what's listed up above, or what is the effective date

1 for a transaction?

2 A The effective date for a transaction is, it
3 can be a date less than the current date if the
4 transaction needs to be back-dated. Memo post activity
5 is not effective dated.

6 Q Then the timestamp date, what does that refer
7 to?

8 A The timestamp date is actually the computer
9 system date that the transaction posted. So if I
10 memo-post a transaction on Saturday, I'm going to have
11 a Saturday system date and time. But the post-date
12 would be Monday because we are on Monday's business,
13 for example. So it's the actual computer system date
14 and system time that the memo post hits. And because
15 we run in Minneapolis, that's a central time zone
16 stamp.

17 Q What is "TC?"

18 A Tran code.

19 Q What is the "5701 tran code?"

20 A That is an ATM or point-of-sale
21 authorization; transaction memo post transaction. The
22 tran code is what tells me a little bit about where it
23 came from.

24 Q Then the "transaction amount" slash what's
25 that bottom part?

1 A "Restricted deposit."

2 Q What does that mean?

3 A If it's a credit transaction, a portion of
4 that credit can be restricted. Or made unavailable.
5 So if you make a deposit at the ATM you only get, a
6 hundred dollars is available. So the restricted
7 deposit tells you how much of the CR is unavailable.

8 Q Then the "trace ID." What is that?

9 A It's a calculated trace that's sent to us
10 from the authorizing system that tells them some
11 information about what they sent.

12 Q Is there an ID number associated with this
13 particular transaction as part of this memo?

14 MR. JOLLEY: Objection, vague and ambiguous.

15 THE WITNESS: There is always a trace. It
16 doesn't mean anything to Hogan, so I'm not sure what
17 your question is.

18 BY MR. MCCUNE:

19 Q Once a transaction comes into the system, is
20 it assigned some number that sticks with it through the
21 Wells Fargo process?

22 A Not from the memo post to the hard post.

23 Q When the system goes from a memo post to a
24 hard post, how does it know which transaction is what?

25 MR. JOLLEY: Objection, vague and ambiguous.

1 THE WITNESS: It doesn't. We don't go from
2 memo post to hard post. The system, being Hogan, does
3 not go from memo post to hard post.

4 There is two pieces to the memo post/hard
5 post process. There is the memo post authorization,
6 and there is the settlement system that delivers the
7 hard post. We don't match them on Hogan. The memo
8 post falls off the hard post.

9 Q Then next is the "operator" I assume.

10 A Yes.

11 Q What does that refer to?

12 A That's typically some type of ID that
13 identifies who did it. So in the case of ATM
14 point-of-sale, this is probably always the same coming
15 from the RDS system. If it were coming from the teller
16 line it may actually have a teller operator ID, for
17 example.

18 Q Then the "source," what is that?

19 A That's the source system that sent the memo
20 post to Hogan. So you'll see POS versus ATM versus
21 TMS, because these are all systems that deliver
22 authorization requests and memo posts to Hogan.

23 Q Then the next part of the description is
24 partially, I think it's cut off. Maybe it's not.

25 What is that?

1 A The description?

2 Q Yes.

3 A It's just the transaction description that's
4 placed on each memo post. It's about a 47-character
5 description. It's not identical to what hits the hard
6 post and the statement.

7 Q It is not identical?

8 A It's not identical to the description
9 provided on the hard post.

10 MR. JOLLEY: Just for the record, this is how
11 it prints out. There is nothing cut off. This is how
12 it would show on the screen.

13 BY MR. MCCUNE:

14 Q Are there any other fields associated with
15 this XR memo that didn't print out on the screen?

16 A I don't know.

17 Q Where does the description come from? How
18 does the computer know how to describe the transaction?

19 MR. JOLLEY: Objection, vague and ambiguous.
20 Compound.

21 THE WITNESS: The system, the authorizing
22 system, sends it. So ATM sends it. Point-of-sale
23 sends it. We don't build it. Hogan doesn't build it.

24 BY MR. MCCUNE:

25 Q So do I understand correctly that all of the

1 information, the data that supports this report is kept
2 for 60 days on an ongoing basis?

3 A Yes.

4 Q And then at the end of the 60 days new data
5 is written over the old data?

6 A No, it's not written over. We just only keep
7 60 days. After 60 days it drops off.

8 Q When you say "drops off," I guess I don't
9 quite understand what that means. What do you mean by
10 "drops off?"

11 A We create a file that has this data, and once
12 that data is 60 days old it, I guess you would think of
13 it as getting written over. But -- I'm not sure in
14 this case whether this is a -- I don't want to get too
15 technical.

16 I'm not sure whether this is a generation
17 data file where we keep 60 generations, once you get
18 60 it falls off, or whether he's adding onto it up
19 to 60 days. So I don't know if it's one big file at
20 this point or whether it's 60 daily files. But
21 Chuck provided that information and told me he only
22 keeps 60 days, so I guess whether it's written over
23 or whether it falls off doesn't really matter. It's
24 gone after 60 days.

25 Q So if I wanted to check on a particular

1 transaction that occurred three years ago on my account
2 through the memo process, a report would be generated
3 for that day, that's the only way we could check that?

4 A This report is a fairly new report and only
5 started being generated in January of 2006. I looked
6 that up yesterday.

7 Q What was done before that?

8 A Nothing.

9 Q So was it your understanding before that it
10 would be kept for 60 days and it would drop off?

11 A Before that there was no log of the memo
12 activity. The way the memos worked, systematically, is
13 the same, but we didn't log and report memo activity
14 before that.

15 MR. MCCUNE: Let's take a few minutes break.

16 (Recess taken.)

17 BY MR. MCCUNE:

18 Q Let's assume that sometime after January of
19 '06 I have an overdraft, and I know the amount, I know
20 where, what type of transaction it was, I know the date
21 the transaction occurred. How would you go about --
22 and I wanted to know when it posted, memo posted, how
23 would I go about doing that?

24 MR. JOLLEY: Objection, vague and ambiguous.
25 Incomplete hypothetical.

1 THE WITNESS: Are you suggesting that
2 overdraft was caused by a specific transaction?

3 BY MR. MCCUNE:

4 Q I'm assuming that I received a notice in the
5 mail saying I got an overdraft fee for specific
6 transaction A.

7 MR. JOLLEY: Same objections. Assumes facts.

8 THE WITNESS: So what's the question?

9 BY MR. MCCUNE:

10 Q My question is I want to go back a year and a
11 half ago, when I got one of those little notices saying
12 my ten dollar Starbucks resulted in an overdraft fee
13 and I want to know when that transaction was memo
14 posted.

15 MR. JOLLEY: Same objections.

16 THE WITNESS: So within the time frame I have
17 this report available?

18 BY MR. MCCUNE:

19 Q Which is after January of '06; right?

20 A Right.

21 Q Yes?

22 A I would have to go to the BR-14 report to
23 find the day you overdraft to find the item that you're
24 suggesting caused the overdraft, and then I have to try
25 and trace that item back to the CR-1 report, and/or the

1 XR memo report, to identify where it posted, what the
2 balance was, where it posted, to determine why it
3 caused the overdraft.

4 Q Why would you need to pull the BR-14 report?

5 A That's the report that's going to tell me a
6 year ago that you overdrafted.

7 Q It's going to identify the specific
8 transactions?

9 MR. JOLLEY: Objection, vague and ambiguous.

10 THE WITNESS: Yes. The BR-14, yes, is going
11 to identify the overdraft condition and the items that
12 fed into that overdraft condition.

13 BY MR. MCCUNE:

14 Q Then what do you need the CR-1 for?

15 A That tells me everything that -- well, I
16 guess I don't really need the CR-1; the BR-14 should
17 tell me everything that posted.

18 Q Is one of these documents, one of these two
19 documents, the BR-14?

20 A Yeah, that one is the BR-14. Exhibit 70 is
21 the BR-14.

22 Q So, for this example, it shows the last four
23 credit card purchases posting into overdraft?

24 MR. JOLLEY: Objection. "Credit card
25 purchases?"

1 MR. MCCUNE: The check card. Thank you.

2 THE WITNESS: Yes.

3 BY MR. MCCUNE:

4 Q So if, in our example, I wanted to go find
5 these four transactions to determine when they were
6 memo posted, what would be the process that determined
7 that?

8 MR. JOLLEY: Objection, vague and ambiguous.
9 You can answer.

10 THE WITNESS: The process would be to take
11 these four transactions on this report and look them up
12 on the XR memo report to identify when they memo
13 posted.

14 BY MR. MCCUNE:

15 Q Physically, how would you go about doing
16 that? Is that running a query, is that printing up?

17 A I would have to go to the report archive
18 system and look up the report.

19 Q How would you look up the report; what
20 parameters would you use to look up the report?

21 MR. JOLLEY: Objection. Assumes facts.

22 THE WITNESS: I would look up the report for
23 the date that I see in this description. So this
24 account was overdraft on October 10th. That's when
25 the actual transaction's posted, on October 10th.

1 But if I look at this description information, it tells
2 me when it was actually authorized. That's the date I
3 would go look up the memo post.

4 BY MR. MCCUNE:

5 Q So the authorization date is part of the
6 description field?

7 MR. JOLLEY: Objection, vague and ambiguous.
8 Objection to the term "description field." You can
9 answer.

10 THE WITNESS: Yes, on these transactions, it
11 is.

12 BY MR. MCCUNE:

13 Q On this BR-14 it has "trace ID" above the
14 numbers. Those trace ID numbers are the settlement
15 system ID numbers?

16 A Yes. That trace ID tells me which system
17 sent it to me, Hogan, and the trace or items sequence
18 number that's assigned to that.

19 Q Is there a specific field within the
20 description in which the date of the memo posting is
21 listed?

22 MR. JOLLEY: Objection, vague and ambiguous.

23 THE WITNESS: No. It's a free-form
24 description field. Hogan's perspective, it's a
25 free-form 172-character field. The settlement system

1 would have to speak to the consistency of the date in
2 the same position of the description.

3 BY MR. MCCUNE:

4 Q Who would be the person in your basic
5 position in the settlement area?

6 A I would probably point you to Paul
7 Williamson.

8 Q Where is Mr. Williamson?

9 A Arizona.

10 Q Do you know whether in this settlement system
11 the date of the memo posting is consistently in the
12 same field?

13 MR. JOLLEY: Objection, vague and ambiguous.

14 THE WITNESS: No.

15 BY MR. MCCUNE:

16 Q You don't know, or it's not?

17 A I don't know, because -- as I stated
18 before -- it's just a description field to us. It's
19 one big field to Hogan.

20 Q The trace ID and the description field on
21 Exhibit 70 do not come from the Hogan system however?

22 A Correct.

23 Q What computer program runs the settlement
24 system?

25 A Again, I think probably Paul or someone from

1 date? I know what an IRD's, I just don't know whether
2 or not this is trying to flag whether or not we have
3 had any IRD's posted to this account. An IRD is an
4 imagery placement document, so a check could be
5 presented to us as an imagery placement document versus
6 an actual check. But it has to do with check
7 processing, not card processing.

8 Q After a transaction memo posts, I have
9 learned it's listed as pending for different times
10 depending on the different type of transaction. So
11 let's take a check card transaction that the settlement
12 does not come in within 5 days.

13 What is happening with the Hogan system
14 for the memo post?

15 MR. JOLLEY: Objection. Scope. Vague and
16 ambiguous. Incomplete hypothetical.

17 THE WITNESS: Hogan only posts what's sent to
18 us. We don't control the length of time a memo post
19 stays on.

20 BY MR. MCCUNE:

21 Q What system controls that?

22 A The card settlement system.

23 Q How does the card settlement system know when
24 there has been a memo posting?

25 MR. JOLLEY: Objection. Scope. Vague and

1 ambiguous.

2 THE WITNESS: They send us the memo post.
3 So, back to IRDS. They send the authorization, and I
4 think Karl mentioned FDR signature-based point-of-sale
5 transactions are authorized through FDR. FDR knows
6 what's settling tonight and what's not. So IRDS is
7 just the authorization system to get to Hogan to post a
8 memo post.

9 After that, FDR is -- who knows whether
10 the item's settling. There is not settling -- they
11 send us, they send card settlement, a file of
12 transactions that need to be re-memo posted, and
13 they send them to Hogan to post. If they don't
14 re-memo post for more than two days, and they never
15 send us a hard post, we have no control over that.
16 We only post what's sent to us.

17 Q So FDR sends a list of transactions that
18 aren't ready for settlement yet or they haven't
19 settled?

20 A Right.

21 Q What happens --

22 MR. JOLLEY: Objection, scope. Vague and
23 ambiguous. You can answer.

24 THE WITNESS: They send those transactions to
25 the card settlement system. They then send those

1 transactions on to Hogan, and we re-memo post them.

2 BY MR. MCCUNE:

3 Q When you say you "re-memo post" them, what
4 does that mean?

5 A What it means is that the original
6 authorization memo post is only out there for the day.
7 It's going to fall off tonight. So when they send us a
8 file of the transactions that are not going to settle
9 so we can run a job to repost those memos in order to
10 continue to hold the funds because we know the customer
11 spent the money.

12 Q And those -- if it's five days, that notice
13 comes for four straight days?

14 MR. JOLLEY: Objection. Assumes facts.
15 Objection, vague and ambiguous. And objection to the
16 assumption of five days.

17 You can answer.

18 THE WITNESS: FDR controls the length of time
19 they send them to us. We don't.

20 BY MR. MCCUNE:

21 Q Does it repost on more than one occasion if
22 it takes five days before the settlement occurs?

23 MR. JOLLEY: Objection, vague and ambiguous.
24 Scope.

25 THE WITNESS: From a Hogan perspective, we

1 will post whatever they send us. If they send it for
2 two days, we will repost it for two days. If they
3 don't send it at all, we don't post it at all. We have
4 no control over what gets re-memo posted. That's all
5 at FDR and settlement.

6 BY MR. MCCUNE:

7 Q There must be some arrangement between Wells
8 Fargo and FDR as to what they are supposed to do; isn't
9 there?

10 MR. JOLLEY: Objection. Scope. That is
11 clearly outside of the scope of her knowledge, personal
12 knowledge, about the agreement with FDR.

13 You can answer.

14 THE WITNESS: That's not my area of
15 expertise.

16 BY MR. MCCUNE:

17 Q So I go to the store, online it shows we
18 having a pending charge on the day, and I have it there
19 for three business days and then it drops off because
20 apparently it hasn't presented for settlement yet --

21 A Yes.

22 MR. JOLLEY: Is that a question? Objection.

23 MR. MCCUNE: It's leading to a question.

24 BY MR. MCCUNE:

25 Q So, the question is, how does the online

1 activity page know that it's to remove that item as a
2 pending charge?

3 MR. JOLLEY: Objection, vague and ambiguous.
4 Incomplete hypothetical. You can answer.

5 THE WITNESS: We don't know to remove it.
6 Every memo posted today falls off tonight.

7 BY MR. MCCUNE:

8 Q When you're saying "we."

9 A Hogan deposits.

10 Every memo transaction that you post for
11 today is gone tonight. It's a one-day memo entry.
12 So if they don't send us a re-memo post, it's gone.
13 We don't -- if it's gone, it doesn't show up online,
14 it doesn't show up in available balance, it doesn't
15 show up anywhere.

16 Q If executive management wanted a system where
17 a pending charge would stay on the customer's online
18 activity page and available balance for, let's say, 30
19 days, continually, and/or until it settled, how would
20 it do that?

21 MR. JOLLEY: Objection, incomplete
22 hypothetical. Assumes facts. Scope.

23 To the extent that she has an
24 understanding of how executive management would go
25 about to do something, she can answer from her

1 system, any other systems you think might have that
2 information or potentially could have that information?

3 MR. JOLLEY: Objection, compound.

4 THE WITNESS: I don't know.

5 BY MR. MCCUNE:

6 Q Would there be any that you would check other
7 than those two?

8 A No.

9 Q Same question for the date and time a
10 transaction was listed or incorporated into the
11 available balance figure; other than Hogan, are there
12 any other systems you would look at to try to figure
13 that out?

14 MR. JOLLEY: Objection, vague and ambiguous.

15 THE WITNESS: No.

16 BY MR. MCCUNE:

17 Q Do you believe that information is anywhere
18 at Wells Fargo?

19 A What information?

20 Q The information as to a particular
21 transaction, when it first was incorporated into
22 available balance?

23 A No.

24 Q You don't believe that it's anywhere?

25 A Available balance is a realtime field,

1 calculated field. It's not stored anywhere.

2 Q For a transaction, does the available balance
3 figure -- strike that.

4 The available balance figure is a transaction
5 that comes in that -- is the mechanism which, that
6 happens when a memo hold is put on a transaction?

7 MR. JOLLEY: Objection, vague and ambiguous.

8 THE WITNESS: Let me make sure I understand
9 this. You're asking me the point in time that the
10 available balance is effected?

11 BY MR. MCCUNE:

12 Q Yes.

13 A Is when the memo transaction is posted in?

14 Q That's what I was asking.

15 A Yes.

16 Q If you knew when the memo hold was placed,
17 you would know when the available balance figure was
18 changed for a particular transaction. Is that an
19 accurate statement?

20 A That's one component of available balance,
21 yes.

22 Q If over the last 30 days we wanted to take
23 transactions that resulted in overdrafts and reorder
24 them not on their hard posting date but rather to do it
25 by their memo posting date, could that be done?

1 MR. JOLLEY: Objection. Scope.

2 THE WITNESS: So if you had all memo post
3 transactions, would you reorder them by their memo
4 posting date and time?

5 MR. MCCUNE: Yes.

6 THE WITNESS: Yes, they are in that order.

7 BY MR. MCCUNE:

8 Q Are they in that order even after they have
9 been hard posted?

10 A No. Memo posts are gone after they have been
11 hard posted. So on the reports they should be in the
12 order they were presented for posting.

13 Q So --

14 A But they are not anywhere on the account any
15 longer.

16 Q So what's --

17 A They're pending temporary entries, if you
18 will. Pending temporary memo.

19 Q I thought the information was kept for 60
20 days.

21 A Not on the account, on the reports. And on
22 the files that feed the reports. Not on the account.

23 MR. MCCUNE: Let's take a break.

24 (Recess taken.)

25 BY MR. MCCUNE:

DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA }
 }
COUNTY OF SAN FRANCISCO } ss.

I, Jan W. Serra, hereby certify:

I am a duly qualified Certified Shorthand Reporter in the State of California, holder of Certificate Number CSR 8207 issued by the Court Reporters Board of California and which is in full force and effect. (Fed. R. Civ. P. 28(a)).

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the witness was first duly sworn by me. (Fed. R. Civ. P. 28(a), 30(f)(1)).

I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in this action. (Fed. R. Civ. P. 28).

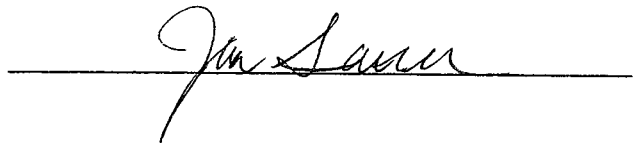
I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a true record

/ / /

1 of the testimony given by the witness. (Fed. R. Civ. P.
2 30(f)(1)).

3 Before completion of the deposition, review of
4 the transcript [xx] was [] was not requested. If
5 requested, any changes made by the deponent (and
6 provided to the reporter) during the period allowed, are
7 appended hereto. (Fed. R. Civ. P. 30(e)).

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9 Dated: July 1, 2008

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